



Legislation Text

File #: 18-1280, **Version:** 1

Human Resources recommending the Board approve and authorize the Chair to sign Resolution **184-2018** to repeal and replace the Salary and Benefits Resolution for Unrepresented Employees (Resolution 039-2018), to amend Section 12 to clarify that in accordance with Government Code section 21224(a) extra help retired annuitants shall not receive any benefit, compensation in lieu of benefits, or other form of compensation in addition to the base hourly rate of pay.

FUNDING: N/A

DISCUSSION / BACKGROUND

Government Code section 21224(a) which was adopted as part of the Public Employee's Pension Reform Act, provides in pertinent part:

"A retired person may serve without reinstatement from retirement or loss or interruption of benefits provided by this system upon appointment by the appointing power of a state agency or public agency employer either during an emergency to prevent stoppage of public business or because the retired person has specialized skills needed in performing work of limited duration. The compensation for the appointment shall not exceed the maximum monthly base salary paid to other employees performing comparable duties as listed on a publicly available pay schedule divided by 173.333 to equal an hourly rate. A retired person appointed pursuant to this section shall not receive any benefit, incentive, compensation in lieu of benefits, or other form of compensation in addition to the hourly pay rate."

If a retired annuitant is paid any benefit, incentive, compensation in lieu of benefits, or other form of compensation in excess of the base salary paid to an employee performing comparable duties, the retired annuitant may be reinstated from retirement by CalPERS. Such reinstatement from retirement carries with it significant financial consequences for the retired annuitant including reimbursement of CalPERS for any retirement benefits received by the retired annuitant during the period of employment and payment to CalPERS an amount equal to the employee contributions that otherwise would have been paid during the period of employment. Similarly, there are financial consequences for the public agency including payment to CalPERS an amount equal to the employer contributions that would have been made during the period of employment.

Presently, the Salary and Benefits Resolution for Unrepresented Employees ("SBR"), Section 12 provides for various special pays and differentials for employees covered by that Resolution.

On July 16, 2018, the California Public Employees' Retirement System notified the County of the requirements of Government Code Section 21224(a) and that, as provided for in Article 8 of the California Public Employees Retirement Law and Government Code Section 7522.56, a retired person under this system may not be employed in any capacity by a CalPERS covered employer that is in violation of these sections.

Although the SBR must be read in light of Government Code sections 21224 and 7522.56, given the

significance of the potential consequences, and in order to ensure that the SBR is interpreted consistent with those sections, it is best that the SBR be amended to explicitly state that retired annuitants are not eligible for any special pays under Section 12 of the SBR.

In addition, all pay above and beyond the hourly rate of pay for extra help retired annuitants has been discontinued.

ALTERNATIVES

No viable alternative recommendations are available.

OTHER DEPARTMENT / AGENCY INVOLVEMENT

Auditor-Controller's Office; County Counsel

CAO RECOMMENDATION / COMMENTS

It is recommended that the Board approve this item.

FINANCIAL IMPACT

N/A

CLERK OF THE BOARD FOLLOW UP ACTIONS

Please provide one copy of the fully executed Resolution to: 1) Katie Lee in the Human Resources Department, and 2) Tim Moore in the Auditor-Controller's Office, Payroll Division.

STRATEGIC PLAN COMPONENT

Good Governance

CONTACT

Tameka Usher, Director of Human Resources